

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:  
BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

J. EZRA MERKIN, GABRIEL CAPITAL, L.P.,  
ARIEL FUND LTD., ASCOT PARTNERS, L.P.,  
ASCOT FUND LTD., GABRIEL CAPITAL  
CORPORATION,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 09-01182 (SMB)

**STIPULATION AND ORDER**

The plaintiff, Irving H. Picard, trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities (“BLMIS”) and the Chapter 7 Estate of Bernard L. Madoff, individually, and Defendants J. Ezra Merkin (“Merkin”) and Gabriel Capital Corporation (“GCC”), and Ralph C. Dawson, as Receiver for Defendant Ascot Partners, L.P. (“Ascot Partners”), Ascot Fund Ltd. (“Ascot Fund”) (collectively, the “Defendants”), by and through their respective, undersigned counsel (collectively, the “Parties”), state as follows:

**WHEREAS**, on August 9, 2017, this Court heard oral argument (the “Hearing”) on the Motion *In Limine* by Defendants to Exclude the Testimony and Report of Bruce G. Dubinsky, ECF No. 349, the Defendants’ Memorandum of Law In Support of Their Motion *In Limine* to Exclude the Testimony and Report of Bruce G. Dubinsky, ECF No. 350, and the Declaration of Daphne Ha in Support of Motion *In Limine* by Defendants to Exclude the Testimony and Report of Bruce G. Dubinsky, ECF No. 351, and the Motion *In Limine* to Exclude the Expert Testimony of Amy B. Hirsch, ECF No. 346, the Memorandum of Law In Support of Defendants’ Motion *In Limine* to Exclude the Expert Testimony of Amy B. Hirsch, ECF No. 347, and the Declaration of Judith A. Archer in Support of Defendants’ Motion *In Limine* to Exclude the Testimony of Amy B. Hirsch, ECF No. 348 (collectively the “Motions”); and the Court having made certain rulings based on the papers submitted by the Parties and the arguments of counsel at the Hearing, and the record in this case.

**WHEREAS**, the Court directed the Parties to settle the Orders on the Motions or to submit respective proposed Orders for the Court’s consideration.

**WHEREAS**, the Parties, in good faith, seek additional time to resolve any disputes and to submit Orders upon consent to the Court.

**NOW, THEREFORE**, in the interest of judicial efficiency and subject to the Court’s approval, the Parties have conferred and agree and stipulate to the following:

1. The Parties agree to extend the time to submit Orders upon consent on the Motions up to and including September 1, 2017.
2. If the Parties are unable to agree to Orders on the Motions, the Parties shall submit their respective proposed Orders for the Court’s consideration on said date.

Dated: New York, New York  
August 23, 2017

/s/ Lan Hoang

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Liquidation of Bernard L. Madoff  
Investment Securities LLC  
and the chapter 7 Estate of  
Bernard L. Madoff*

/s/ Judith A. Archer

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*Attorneys for Defendants J. Ezra Merkin and  
Gabriel Capital Corporation*

SO ORDERED this 23<sup>rd</sup> day of August 2017.

/s/ STUART M. BERNSTEIN

HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE